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April 25, 2005

By Hand Delivery

Marlene H. Dortch
Secretary
Federal Communications Commission
c/o 236 Massachusetts Avenue, N.E.
Suite 110
Washington, D.C. 20002

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APR 25 2005

Federal Communications Commission
Office of Secretary

Re: Amendment of Section 73.202(b),
Table of Allotments, FM Broadcast Stations
(San Luis Obispo and Lost Hills, California
and Maricopa, California)
MB Docket No. 05-88; RM-11173; RM-11177

Dear Ms. Dortch:

Transmitted herewith on behalf of GTM San Luis Obispo, are an original and four copies of its "Comments" filed in the above-referenced proceeding in response to the Commission's *Notice of Proposed Rule Making*, DA 05-577 (released March 4, 2005).

Should any questions arise concerning this matter, please communicate directly with the undersigned.

Very truly yours,

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP

Attorneys for
GTM San Luis Obispo

By: 

Andrew S. Kersting

Enclosure

cc: Certificate of Service (w/ encl.) (by hand & first-class mail)

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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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APR 25 2005

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Federal Communications Commission
 Office of Secretary

In the Matter of)
)
 Amendment of Section 73.202(b),)
 Table of Allotments,)
 FM Broadcast Stations)
 (San Luis Obispo and Lost Hills, California and)
 Maricopa, California)

MB Docket No. 05-88
 RM-11173
 RM-11177

To: Office of the Secretary

COMMENTS

GTM San Luis Obispo ("GTM"), licensee of radio station KLRM(FM), San Luis Obispo, California, acting pursuant to Section 1.415 of the Commission's rules, 47 C.F.R. §1.415, hereby submits its comments in response to the Commission's *Notice of Proposed Rule Making*, DA 05-577 (Aud. Div., March 4, 2005) ("*NPRM*"), in the above-captioned proceeding.

I. Introduction and Summary.

In its Petition for Rulemaking filed March 11, 2004, GTM, licensee of radio station KLRM, Channel 246B1, San Luis Obispo, California, proposed to substitute Channel 245B1 for Channel 246B1 at San Luis Obispo, reallocate Channel 245B1 to Lost Hills, California, and modify the license for KLRM to specify Lost Hills as its new community of license in accordance with *Modification of FM and TV Authorizations to Specify a New Community of License*, 4 FCC Red 4870 (1989), *recon. granted in part*, 5 FCC Red 7094 (1990). Thus, GTM proposed to amend Section 73.202(b) of the Commission's rules as follows:

<u>City</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
San Luis Obispo	227B, 241B, 246B1, 251B	227B, 241B, 251B
Lost Hills	289A	289A, 245B1

GTM's proposal would provide the community of Lost Hills with its second local service and first competitive service, as well as provide Lost Hills with its first on-air broadcast service.¹ As stated in the *NPRM*, however, 105 Mountain Air, Inc. ("Mountain Air"), filed a mutually exclusive proposal requesting the allotment of Channel 245A at Maricopa, California, which would provide that community with its second local service. As demonstrated herein, the allotment of Channel 245B1 to Lost Hills would result in a preferential arrangement of allotments under the Commission's fourth allotment priority, and, therefore, Lost Hills should be awarded the new FM service.

II. The Allotment of Channel 245B1 to Lost Hills Would Provide New Service to Substantially More People.

As stated in the *NPRM*, Lost Hills is a Census Designated Place located in Kern County, California with a 2000 U.S. Census population of 1,938 people. *NPRM* at ¶2. Maricopa, on the other hand, is an incorporated community also located in Kern County with a 2000 U.S. Census population of 1,111 persons. *Id.* at ¶3. Lost Hills therefore has 827 more people than the smaller community of Maricopa. This difference in population represents 42.7% of the population of Lost Hills and 74.4% of the population of Maricopa.

In addition to the substantial difference in population between the two communities, the allotment of Channel 245B1 at Lost Hills would serve substantially more people than the

¹ Vacant Channel 289A has been assigned to Lost Hills. It has recently been made available for auction in Auction No. 62. See *Public Notice, Auction of FM Broadcast Construction Permits Scheduled for November 1, 2005*, DA 05-1076 (April 14, 2005).

allotment of Channel 245A at Maricopa. As demonstrated in the Engineering Statement of John J. Mullaney annexed hereto as Exhibit A, GTM's proposed allotment of Channel 245B1 at Lost Hills has an allotment reference circle of 39.1 km while the proposed allotment of Channel 245A at Maricopa has an allotment reference circle of 28.3 km. Based on the 2000 U.S. Census, the GTM proposal encompasses 45,550 persons whereas the Mountain Air proposal encompasses only 20,582 persons. Thus, the proposed allotment of Channel 245B1 to Lost Hills will provide service to 24,968 more persons or 2.21 times the population as the proposed allotment of Channel 245A at Maricopa. See Exhibit A at 2 and Figure 1.

III. Lost Hills is More Deserving of New Service.

A. Factual Comparison.

In addition to serving more people, the Lost Hills allotment would provide more meaningful service than the Maricopa allotment. As a threshold matter, the Lost Hills allotment would provide a first on-air broadcast service to that community whereas the Maricopa allotment would not.

Lost Hills currently has only a vacant allotment on Channel 289A which has recently been scheduled for auction in November 2005.² Due to the time involved in holding an auction, processing of the winning bidder's long-form 301 application, and the eventual construction of a new station in Lost Hills, the allotment of Channel 245B1 to Lost Hills and modification of KLRM's license to specify Lost Hills as its community of license is likely to result in the first on-air broadcast service in Lost Hills.

As stated in the *NPRM*, the allotment of Channel 245A at Maricopa also would provide that community with its second local service. However, a construction permit has recently been

² See note 1, *supra*.

granted to College Creek Broadcasting, Inc. to operate on Channel 235A at Maricopa.³ Since the permit was obtained during Auction No. 37 at a winning bid of \$2,319,000, it can be anticipated that the permittee will commence operation of the new Class A facility in the very near future in order to begin recouping a return on its substantial investment. Thus, unlike the situation in Lost Hills, the allotment of Channel 245A at Maricopa would result in a second operating service rather than a first on-air service in Maricopa.

The allotment of Channel 245B1 to Lost Hills also would provide more meaningful service based on a comparative assessment of the businesses and civic establishments in those communities.⁴ As the Commission acknowledged in the *NPRM*, Lost Hills has its own zip code (93249), post office, fire department, water department, school district, and local businesses. *NPRM* at ¶2. The Lost Hills post office is located at 21155 Paso Robles Highway, Lost Hills, California 93249-9998. The post office is staffed by a Postmaster, Kathy McCurry, and a delivery person. According to Ms. McCurry, there are approximately 133 stops on the mail route and approximately 680 post office boxes, 75%-80% of which are rented.

The Kern County Fire Department has a fire station located in Lost Hills at 14670 Lost Hills Road, Lost Hills, California 93249. The Lost Hills fire station is manned by a Captain, an Engineer, and a Firefighter, all of whom are paid positions. The three firemen are on duty 24 hours, seven days per week. According to Captain Robert Doty, the Lost Hills fire station provides fire protection to Lost Hills and the surrounding community. An emergency medical technician and an ambulance respond to the scene of all medical emergencies.

³ See File No. BNPH-20050103AAD.

⁴ The factual information contained in these Comments was obtained by Jacqueline Downs, a Project Specialist in the undersigned counsel's firm. A supporting declaration from Ms. Downs is annexed hereto as Exhibit B.

Lost Hills is also home to the Union School District (“USD”) which is located at 21109 Highway 45, Host Hills, California 93249. The USD consists of an elementary school, which includes grades K-4, and a middle school, which includes grades 5-8. The elementary school has 323 students and the middle school has 234 students. There are 27 teachers in the Lost Hills elementary and middle schools. Students are bussed to nearby Wasco to attend high school.

The Lost Hills Water District is located at 800 Aqueduct Street, Lost Hills, California 93249. According to Verda Rolin, a dispatcher for the Water District, the Water District has approximately 14 employees, four of whom are Water Operators. The Water District primarily delivers agricultural water to local farms, most of which are almond farms. The Water District’s other services include delivery of water to the USD.

The Lost Hills Community Health Center (“Health Center”) is located at 21138 Highway 46, Lost Hills, California 92349. Among other services, the Health Center provides family care, prenatal care, diabetes care, and physicals. The Health Center generally treats the residents of Lost Hills, but people from other areas also come to the Health Center to receive treatment as well, especially since the Health Center is located just off a local highway.

The Health Center is staffed by one rotating physician each day, a dentist, and four staff members. The attending physicians for the Health Center are doctors who visit the Center from Bakersfield. The dentist visits the Health Center two or three days a week, depending on the number of his appointments.

Lost Hills also has its own Family Resource Center (“The Center”) which is located at 21109 Paso Robles Highway, Lost Hills, California 93249. According to Maria Garcia, The Center’s Program Director, The Center primarily provides services for families with children through the age of five. Ms. Garcia described The Center as a “school readiness program” because it works with children who are not accepted into the local head start program. The

Center also provides case management for families who are either on welfare or close to being on welfare by providing them with food, clothes, transportation, and translation services.

The Center has four paid staff members: a Program Coordinator, a Data Entry person, and two case managers. The Center also has several parent volunteers. The Center provides services Monday through Friday at no charge. The Center is sponsored as part of California's Proposition 10, but the funds are distributed by "First Five Kern," which allocates state funds to programs that serve children in Kern County to help ensure that they are healthy and prepared to enter school. The Center has also received a partial grant from the Department of Human Services to provide assistance to families with children through the age of 18.

In addition to its various governmental and community organizations, there are more than 50 local businesses located in Lost Hills which could immediately benefit from a new on-air broadcast service in the community. Those businesses include the following: Day's Inn Hotel, Motel 6, KOA of Lost Hills, Chevron, Lost Hills Shell, Love's of California Store, Pilot Travel Center, Brannon's Auto Parts, CMC General Auto Repair, VB Auto Truck & Diesel Repair, Blackwell Corner Mini Mart, Lalo's Meat Market, Sonny's Deli, Carl's Jr., Denny's, Wendy's, Lost Hills Restaurant, California Drilling Fluids, Gotland Oil Inc., Juanita's Beauty Salon, Mettler Pallets, Pacific Almond Co., Paramount Farms, and Lost Hills Dental Center. See Exhibit C annexed hereto.

Maricopa has its own post office, a limited local government, local police and fire protection, an elementary school, and its own high school. Although Maricopa has some local businesses and civic establishments, they are fewer in number than those in Lost Hills.

B. Legal Assessment.

GTM's proposal presents a preferential reallocation plan under the fourth allotment priority set forth in *Revision of FM Assignment Policies and Procedures*, 90 FCC2d 88, 92

(1982). Lost Hills has a population that is 74.4% greater than that of Maricopa, and the allotment of Channel 245B1 to Lost Hills will enable the new FM station to serve nearly 25,000 more people than if Channel 245A were to be allotted to Maricopa. Lost Hills also has more government and community-oriented organizations than Maricopa. More importantly, those organizations are committed to serving the needs and interests of the residents of Lost Hills, including its children, which demonstrates that the community of Lost Hills is more in need of a new FM service than Maricopa.

IV. Expression of Interest.

If the Commission grants GTM's proposal seeking the reallocation of Channel 245B1 to Lost Hills, GTM will file an application for a construction permit for the modified facility, and, if its application is granted, will promptly construct the new Class B1 facility at Lost Hills.

Conclusion

WHEREFORE, in light of the foregoing, GTM respectfully requests that the Commission (1) amend the FM Table of Allotments by substituting Channel 245B1 for Channel 246B1 at San Luis Obispo, California, (2) reallocate Channel 245B1 from San Luis Obispo to Lost Hills, California, and (3) modify the license for KLRM to specify Lost Hills as its community of license.

Respectfully submitted,

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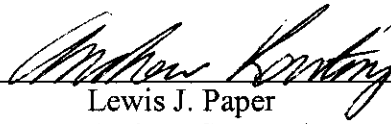
By: 
Lewis J. Paper
Andrew S. Kersting

EXHIBIT A

Engineering Statement

JOHN J. MULLANEY
JOHN H. MULLANEY, P.E. (1994)
ALAN E. GEARING, P.E.
TIMOTHY Z. SAWYER

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301 590-9757 Fax
Mullaney@MullEngr.com

MULLANEY ENGINEERING, INC.
9049 SHADY GROVE COURT
GAITHERSBURG, MD 20877

ENGINEERING EXHIBIT EE-RM:
COMMENTS IN SUPPORT - DOCKET 05-88
RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS
MOVE Ch. 245B1 TO LOST HILLS, CA
FROM SAN LUIS OBISPO, CA

APRIL 22, 2005

ENGINEERING STATEMENT PREPARED ON BEHALF OF
GTM SAN LUIS OBISPO
LICENSEE OF KLRM (FM) - SAN LUIS OBISPO, CA



ENGINEERING EXHIBIT EE-RM:

**RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS**

**MOVE Ch. 245B1 TO LOST HILLS, CA
FROM SAN LUIS OBISPO, CA**

TABLE OF CONTENTS:

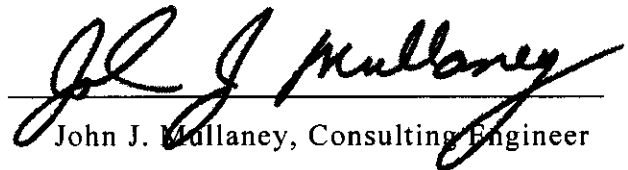
1. Declaration of Engineer
2. Narrative Statement
3. Figure 1, Coverage Map & Populations

Declaration

I, John J. Mullaney, declare and state that I am a graduate electrical engineer with a B.E.E. and my qualifications are known to the Federal Communications Commission, and that I am an principal engineer in the firm of Mullaney Engineering, Inc., and that I have provided engineering services in the area of telecommunications since 1977. My qualifications as an expert in radio engineering are a matter of record with the Federal Communications Commission.

The firm of Mullaney Engineering, Inc., has been requested by GTM San Luis Obispo, to prepare the instant engineering exhibit in support of a rule making petition to amend the FM Table of Allotments.

All facts contained herein are true of my own knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in black ink, reading "John J. Mullaney", is written over a horizontal line.

John J. Mullaney, Consulting Engineer

Executed on the 22nd day of April 2005

ENGINEERING EXHIBIT EE-RM:

**RULE MAKING TO AMEND
FM TABLE OF ALLOTMENTS**

**MOVE Ch. 245B1 TO LOST HILLS, CA
FROM SAN LUIS OBISPO, CA**

NARRATIVE STATEMENT:

This engineering statement has been prepared on behalf of GTM San Luis Obispo, ("GTM"), licensee of Radio Station KLRM at San Luis Obispo, California. This engineering exhibit provides comments in supports of GTM's petition (RM-11173) to amend the FM table of allotments - MB Docket 05-88. GTM's proposal is mutually exclusive with a proposal by 105 Mountain Air, Inc. (Mountain Air).

GTM proposes to allot Ch. 245B1 at Lost Hills, CA, in lieu of its present operation of 246B1 at San Luis Obispo, CA, and to modify the license of KLRM accordingly. In order to accomplish the GTM proposal, no other changes are necessary. Mountain Air proposes to allot 245A to Maricopa, CA. In order to accomplish the Mountain Air proposal no other changes are necessary. It was determined that both proposals are located just 52.4 km apart while the rules require a separation of 143 km and thus, both proposals are **mutually exclusive** with each other.

Public Interest Showing

The initial rule making petition correctly determined that using a 60 dBu contour the GTM proposal has the potential to serve 204,140 persons. However, in comparative allotment proceedings the FCC traditionally uses allotment "circles". GTM proposes a class **B1** facility which has an allotment reference circle of **39.1 km** while Mountain Air proposes a class **A** facility which has an allotment reference circle of **28.3 km**. Using the 2000 Census it was determined that the GTM proposal encompasses **45,550 persons** while the Mountain Air proposal encompasses **20,582 persons**. Thus, the GTM proposal provides service to **24,968 more persons or 2.21 times the population** proposed by Mountain Air. **Figure 1** is a map showing the existing 60 dBu service of KLRM and the allotment circles for both Lost Hills and Maricopa.

The community of **San Luis Obispo** has seven existing FM stations and four existing AM stations licensed to it for a total of **11 aural services**. The community of **Lost Hills** has an existing vacant allotment on Ch. 289A and no AM stations licensed to it. The GTM proposal to allot 245B1 would be the second aural service at Lost Hills. The vacant FM allotment has just been scheduled in Auction 62 (November 2005). The community of **Maricopa** has a recently granted CP on Ch. 235A and no AM stations licensed to it. The Mountain Air proposal to allot 245A would be the second aural service at Maricopa. Given that the FM CP was recently obtained in Auction 37 at a cost of \$2,319,000 it is expected that operation of that CP facility will start very soon. Based upon the above, it would appear that GTM has the potential to be the **first operating service** at Lost Hills while Mountain Air will most likely be the **second operating service** at Maricopa. The community of San Luis Obispo will continue to have **ten aural services** licensed to it.

GTM has presented a plan which is a more efficient use of the limited frequency spectrum in & around California. Based upon the above information, GTM believes that its request results in a preferential arrangement of allotments and therefore, serves the public interest.

SUMMARY

GTM San Luis Obispo, licensee of Radio Station KLRM at San Luis Obispo, California, requests that the FM Table of Allotments be amended as presented herein.

GTM requests that the Commission's FM Table of Allotments be revised as follows:

Community	Present	Proposal
San Luis Obispo, CA - KLRM	246B1	Deletion
Lost Hills, CA - KLRM	289A	289A & 245B1

Note: only the channels under discussion herein are shown in above table.

Based upon the information presented herein, GTM believes that its request results in a preferential arrangement of allotments and is **superior to the proposal** by Mountain Air to allot 245A to Maricopa, CA. If granted, KLRM will quickly file an application for construction permit.



John J. Mullaney, Consulting Engineer

April 22, 2005.

FIGURE 1 - COVERAGE MAP

MB Docket 05-88 Lost Hills & Maricopa, CA

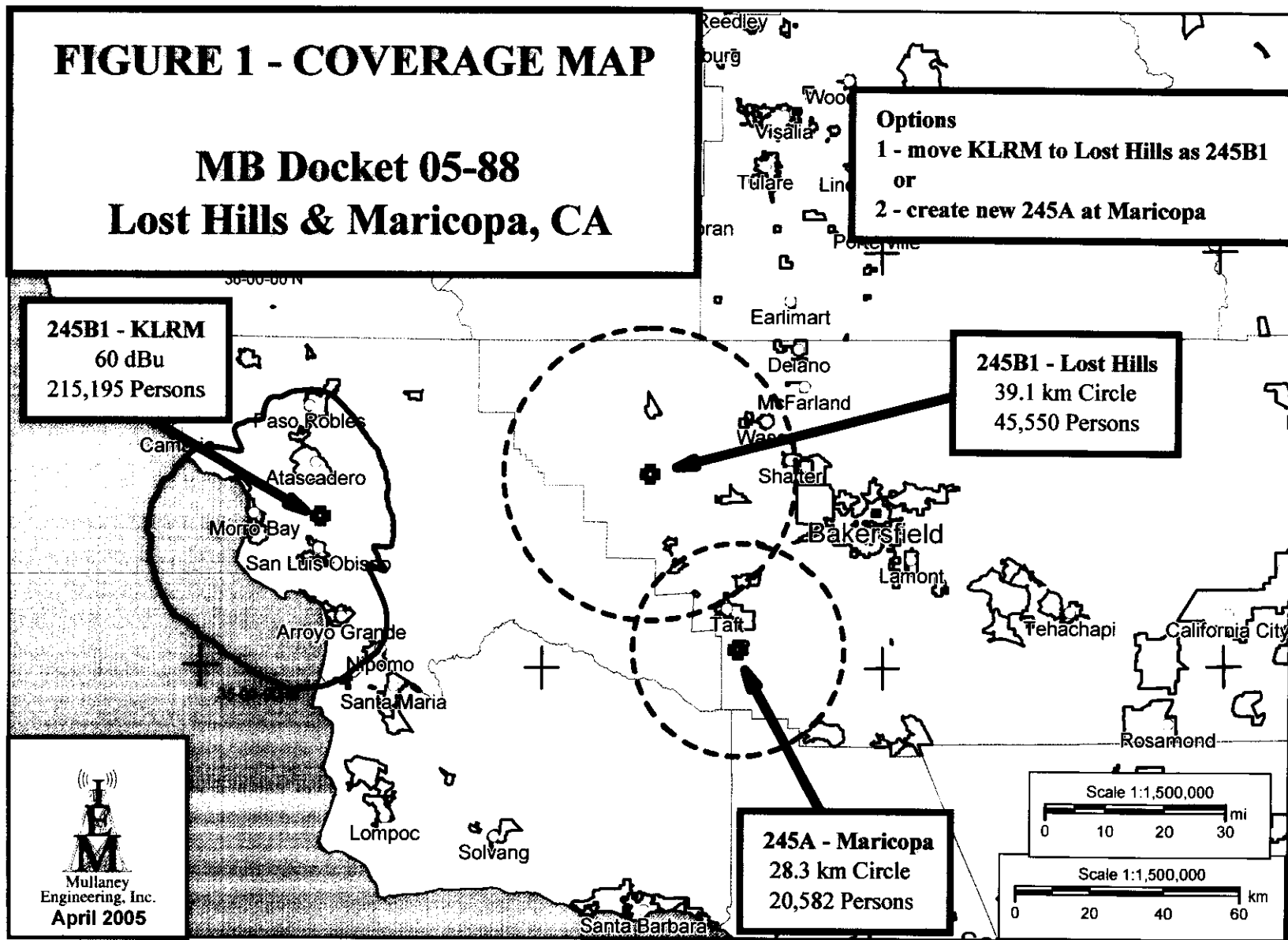


EXHIBIT B

Declaration of Jacqueline Downs

DECLARATION

I, Jacqueline Downs, hereby declare under penalty of perjury as follows:

1. I am a Project Specialist at Dickstein Shapiro Morin & Oshinsky LLP. I was asked to assist in obtaining information concerning the communities of Lost Hills and Maricopa, California.
2. I telephoned the various individuals identified in the Comments to be filed by GTM San Luis Obispo with the Federal Communications Commission in MB Docket No. 05-88, RM-11173, RM-11177.
3. I have read the foregoing Comments and all of the statements of fact concerning the businesses and civic organizations in Lost Hills, California are accurate and correct to the best of my knowledge and belief.

Signed and dated this 25th day of April, 2005.

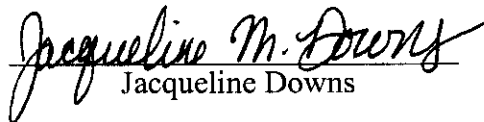

Jacqueline Downs

EXHIBIT C

Businesses Located in Lost Hills

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All	Company Name	Address	City/State	ZIP	Phone	Linkage	
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<input type="checkbox"/>	CMC GENERAL AUTO REPAIR	21199 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-2697		
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<input type="checkbox"/>	GOTLAND OIL INC	17247 HIGHWAY 33	LOST HILLS, CA	93249	(661) 762- 7351		

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<input type="checkbox"/>	LOST HILLS WATER DISTRICT	800 AQUEDUCT ST	LOST HILLS, CA	93249	(661) 797-2311		
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<input type="checkbox"/>	LOVE'S OF CALIFORNIA STORE	21948 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-1800		
<input type="checkbox"/>	MC DONALD'S	14802 POWERS ST	LOST HILLS, CA	93249	(661) 797-2111		
<input type="checkbox"/>	METTLER PALLETS	20900 HIGHWAY 46	LOST HILLS,	93249	(661) 797-		

			CA		2522		
<input type="checkbox"/>	MOTEL 6	14685 WARREN ST	LOST HILLS, CA	93249	(661) 797- 2346		
<input type="checkbox"/>	MUNGER FARMS	G P RD	LOST HILLS, CA	93249	(661) 797- 2270		
<input type="checkbox"/>	PACIFIC ALMOND CO	1433 GP RD	LOST HILLS, CA	93249	(661) 465- 5661		

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All	Company Name	Address	City/State	ZIP	Phone	Linkage	
						Up	Down
<input type="checkbox"/>	PARAMOUNT FARMING CO	13880 HIGHWAY 33	LOST HILLS, CA	93249	(661) 797-2830		
<input type="checkbox"/>	PARAMOUNT FARMING CO	HIGHWAY 46	LOST HILLS, CA	93249	(661) 465-5701		
<input type="checkbox"/>	PARAMOUNT FARMS	10429 KING RD	LOST HILLS, CA	93249	(661) 797-2333		
<input type="checkbox"/>	PARAMOUNT FARMS	13646 HIGHWAY 33	LOST HILLS, CA	93249	(661) 797-6500		
<input type="checkbox"/>	PILOT TRAVEL CTR	14808 WARREN ST	LOST HILLS, CA	93249	(661) 797-2122		
<input type="checkbox"/>	PISTACHIO USA	HIGHWAY 33	LOST HILLS, CA	93249	(661) 797-2604		
<input type="checkbox"/>	SAN JOAQUIN COMPOSTING	12421 HOLLOWAY RD	LOST HILLS, CA	93249	(661) 797-2914		
<input type="checkbox"/>	SHELL	14805 BUFORD ST	LOST HILLS, CA	93249	(661) 797-2640		
<input type="checkbox"/>	SONNY'S DELI	21124 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-1828		
<input type="checkbox"/>	STANFORD RESEARCH INSTITUTE	15334 WEISER RD	LOST HILLS, CA	93249	(661) 465-5694		
<input type="checkbox"/>	TOSCO PIPELINE	14990 HIGHWAY 46	LOST HILLS, CA	93249	(661) 465-5666		
<input type="checkbox"/>	TWIN FARMS INC	S FIELD RANCH	LOST HILLS, CA	93249	(661) 797-2516		
<input type="checkbox"/>	UNION OIL CO	Not Available	LOST HILLS, CA	93249	(661) 465-5657		
<input type="checkbox"/>	US POST OFFICE	21155 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-2468		
<input type="checkbox"/>	V B AUTO TRUCK & DIESEL REPAIR	21189 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-9799		
<input type="checkbox"/>	VILLAGE MARKET	21315 PASO ROBLES HWY	LOST HILLS, CA	93249	(661) 797-2382		
<input type="checkbox"/>	WATER RESOURCE DEPT	21139 HIGHWAY 46	LOST HILLS, CA	93249	(661) 797-2391		
<input type="checkbox"/>	WENDY'S	14808 WARREN ST	LOST HILLS, CA	93249	(661) 797-1282		
<input type="checkbox"/>	WEST FARMERS	18903 TWISSELMAN RD	LOST HILLS, CA	93249	(661) 797-2316		

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Name:	STANFORD RESEARCH INSTITUTE	Google News	Employees:	Corporate: Location: 1 to 4
Address:	15334 WEISER RD		Est Sales:	
City:	LOST HILLS, CA 93249-0000		Location:	SINGLE LOC
Contact:	DAVID CARPENTER (MANAGER)		Headquarters:	None
County:	KERN		Credit Rating Code*:	VERY GOOD
MSA (Metro Area):	BAKERSFIELD, CA		ABI Number:	413605775
Phone:	(661) 465-5694		Public:	NO
Fax**:			Stock Exchange:	None
Fortune 1000 Ranking:	Not Available		Ticker Symbol:	Not Available
Foreign Parent:	NO		Toll Free Number:	Not Available
			URL:	Not Available

SIC	Lines of Business	Ad Size	Year Appeared in YP
8731-06	ELECTRONIC RESEARCH & DEVELOPMENT	REGULAR	1994

NAICS	Lines of Business
54171005	PHYSICAL, ENGINEERING, & BIOLOGICAL RESEARCH

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Speedpass at the Register
Mobil 1 Oil
Mobil Drive Clean Blend
Car Wash
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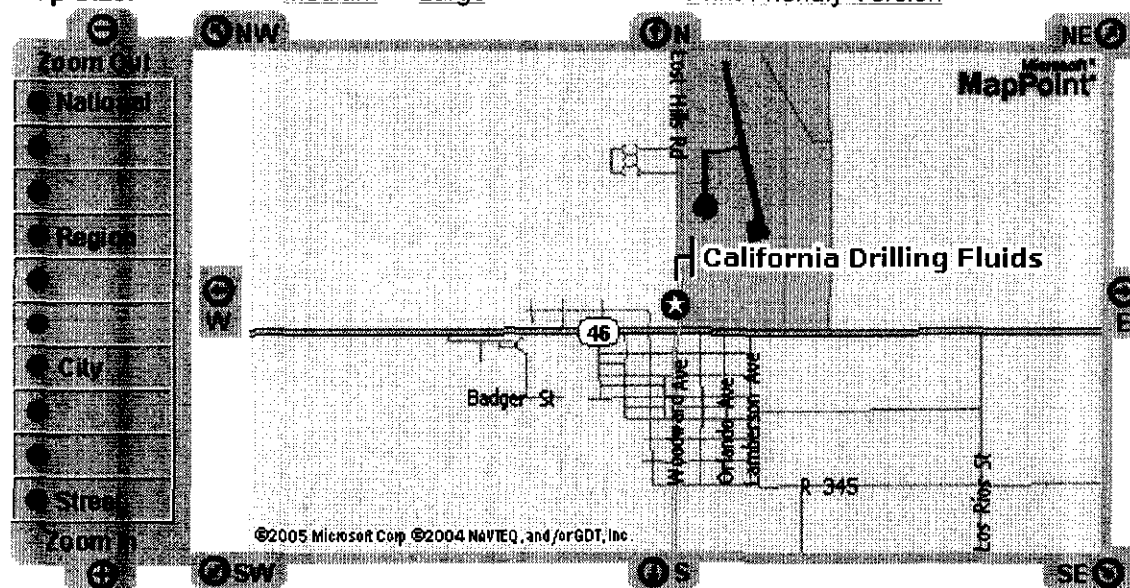
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 Nuts - Pistachios
 Nuts - Cashews, Pecans, Macadamias
 Nuts - Mixed Nuts, Peanuts, Walnuts
 Nuts - Flavor Wheels
 Trail Mix, Seeds & Snacks
 Candy & Dried Fruit
 Fruit Preserves, Butters & Cobblers
 Pickled, Vegetables & Salad Dressings
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Nuts - Cashews, Pecans, Macadamias



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Nuts - Flavor Wheels



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Phone: (661) 797-2308

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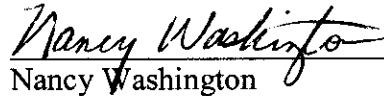
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